Transportation Appeal Tribunal of Canada

Tribunal d'appel des transports du Canada

30th ANNIVERSARY

ANNUAL REPORT

2015-2016

Canada

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The Honourable Marc Garneau, P.C., M.P.
Minister of Transport
Transport Canada
Place de Ville, Tower "C"
330 Sparks Street, 29th Floor
Ottawa, Ontario K1A 0N5

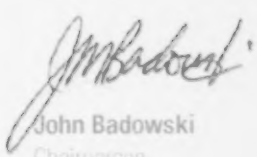
Dear Honourable Minister:

RE: ANNUAL REPORT 2015-1016

In reference to the above and pursuant to section 22 of the *Transportation Appeal Tribunal of Canada Act*, I am very pleased to submit to Parliament, through your intermediary, the Annual Report of the Transportation Appeal Tribunal of Canada for the fiscal year 2015-2016.

It is an honour and a privilege to serve Canadians in the national transportation sector.

Respectfully,



John Badowski
Chairperson

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Canada

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MESSAGE FROM THE CHAIRPERSON

It is my pleasure to present the 2015-2016 Annual Report of the Transportation Appeal Tribunal of Canada as we mark our 30th anniversary this year. The Tribunal is an independent and transparent avenue of adjudication that serves Canadians by conducting hearings of federal enforcement and licensing decisions in the transportation industry.

The Tribunal hears cases (including medical cases) across the country in the aviation, marine, rail, and the international bridges and tunnels sectors. Through an adjudicative process of Reviews and Appeals, we continue to play a unique and active role in the relationship between the Federal Government and the transportation community.

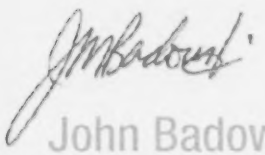
Over the past year, the Tribunal experienced a steady intake of Review and Appeal requests, on par with previous years. As the Tribunal's mandate continues to evolve due to expanded jurisdiction expected from the imminent *Motor Vehicle Safety Act*, and monetary penalties being added to the *Transportation of Dangerous Goods Act*, requests for Reviews and Appeals are expected to remain constant or increase. For the first time in our thirty-year history, the Tribunal has a backlog of Rail cases waiting to be heard. An influx of *Charter* challenges, constitutional arguments, and national security cases have all added challenges to our workload, as these increasingly complex cases require scheduling of up to seven days each.

In terms of results, I am very pleased to report that excessive delays in the routine, ongoing publication of determinations have again been reduced, on average, by 23 per cent this year. In two years, our average publication time for review determinations has dropped from 159 days to 85 days. I am indebted to the hard work of our part-time Members, and to the dedicated work of our headquarters staff, for making this reduction in processing time a reality.

Certain challenges for the Tribunal remain, such as the number of Members available to conduct hearings expeditiously, and the recruitment and retention of Members with the appropriate skill sets. Over the past year, two Members retired and four reached their end-of-mandate. Only one member of that group was re-appointed, and no new appointments were made, causing a net loss of five members to the Tribunal.

It is my opinion that the professionalism and ability of our dedicated Governor in Council Members to render complex, multi-dimensional decisions is second-to-none in the world of administrative tribunals here in Canada. The challenges facing us in the coming year related to new Acts, and new challenges under current legislation, including cases involving drones in Canadian airspace, will be met with confidence by our Members. Their success is due in no small part to the tireless efforts of our headquarters staff who support the mission of this Tribunal.

It is an honour and a privilege to work with such a dedicated group of Members and Public Servants, and to serve Canada in this role.



John Badowski, MSM
Chairperson

OVERVIEW

Introduction

The Transportation Appeal Tribunal of Canada replaced the Civil Aviation Tribunal in 2003, originally established under Part IV of the *Aeronautics Act* in 1986. On the recommendation of the Minister of Transport, pursuant to section 73 of the *Transportation Appeal Tribunal of Canada Act*, assented to on December 18, 2001, being chapter 29 of the Statutes of Canada, 2001, the Act officially came into force on June 30, 2003.

MANDATE

The Tribunal's principal mandate is to hold Review and Appeal Hearings at the request of interested parties with respect to certain administrative actions taken under various Federal transportation Acts.

The Tribunal is available to hear Review and Appeal Hearings originating from the aviation, marine, rail, and international bridges and tunnels sectors. The Tribunal provides an independent review process for anyone who has been given notice of an administrative or enforcement action taken by the Minister of Transport, or the Canadian Transportation Agency, under various Federal transportation Acts.

Section 2 of the *Transportation Appeal Tribunal of Canada Act* establishes the Tribunal, and sets out its jurisdiction and decision-making authorities as provided by a variety of federal transportation legislation, including the *Aeronautics Act*, the *Canada Shipping Act, 2001*, the *Marine Transportation Security Act*, the *Railway Safety Act*, the *Canada Transportation Act*, the *International Bridges and Tunnels Act*, the *Canada Marine Act*, and the *Navigation Protection Act*.

Program Objective and Description

The objective of the program is to provide the multi-modal transportation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent, quasi-judicial body specialized in transportation law.

The Minister's enforcement and licensing decisions may include the issuance of orders, the imposition of monetary penalties or the suspension, cancellation, refusal to renew, or the refusal to issue or amend documents of entitlement on medical or other grounds. The person or corporation affected is referred to as the document holder.

These decisions are reviewed through an adjudicative process that includes Review Hearings and Appeal Hearings. All hearings are held expeditiously and informally, in accordance with the rules of natural justice.

At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

It is noteworthy to mention that expanded jurisdiction over the past decade, combined with regulatory changes and increasing awareness of the Tribunal's role in the Federal transportation sector, have resulted in an increasing caseload that is expected to continue in the years ahead.

Organizational Structure

The Tribunal's Chairperson is also its Chief Executive Officer. The Chairperson is responsible for directing and supervising the work necessary to facilitate the functions of the Tribunal. The Chairperson, Vice-Chairperson and immediate staff account for twelve full-time equivalents. As of the end of fiscal year 2015-2016, 24 part-time Members were in office. Members are drawn from across Canada and are appointed by Governor in Council on the basis of their transportation knowledge and expertise. During 2015-2016, four part-time Member's terms expired and only one was renewed; two part-time Members retired; and no new part-time Members were appointed. This resulted in a net loss of five part-time Members.

Basic Principles

The basic principles governing the Tribunal are those of independence and transportation expertise. The sound, competent, and comprehensive execution of the Tribunal's mandate determines its effectiveness in dealing with the national transportation community.

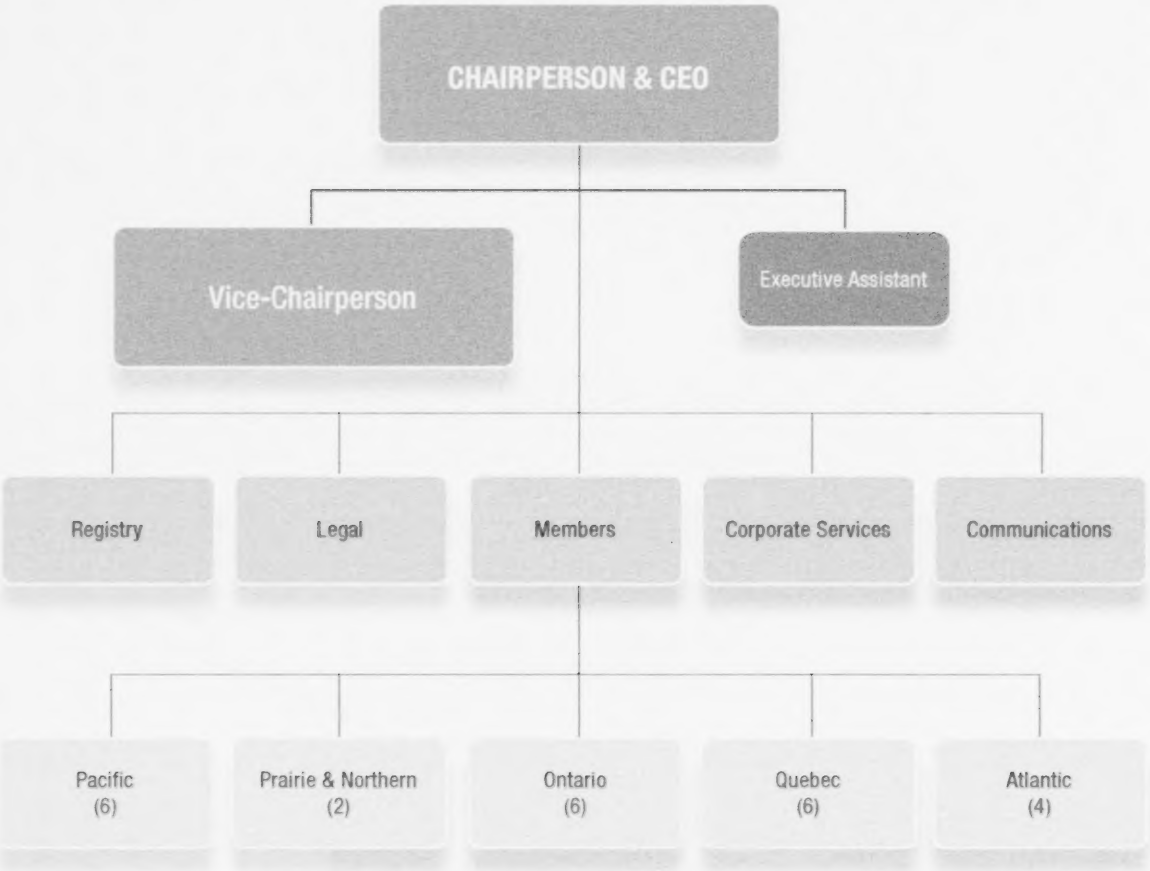
The Tribunal offers its services in both official languages of Canada. It is also itinerant, in the sense that its hearings take place throughout Canada, at the convenience of the parties to the extent possible.

In enforcement matters, the hearing generally takes place where the alleged infraction occurred, or the nearest practical alternative, so that witnesses for the parties may present themselves with minimum displacement costs.

In medical cases, hearings are held at a location nearest to the residence of the document holder which is accessible by commercial transportation.

Tribunal Staff

ORGANIZATION CHART



* Twelve full-time equivalents (FTEs) are utilized by the continuing full-time employees, including the Chairperson and Vice-Chairperson. During fiscal year 2015-2016, one part-time Member was renewed and no new part-time Members were appointed. Two part-time Members retired and four part-time Member's terms expired.

** As of November 1, 2014, TATC staff report to the Executive Director, Corporate Services on all administrative matters under the responsibility of the Administrative Tribunals Support Service of Canada (ATSSC).

JOHN BADOWSKI
CHAIRPERSON

Mr. John Badowski was appointed to the Tribunal as chairperson until December 31, 2018. He previously served the Tribunal as vice-chairperson for two years.

Mr. Badowski was a member of the Refugee Protection Division of the Immigration and Refugee Board of Canada (IRB) since 2008 as a presiding member and, subsequently, as coordinating member and team leader. He is also the former chairperson of the IRB's Professional Development Committee and a former member of the International Association of Refugee Law Judges, where he served on its Expert Evidence Working Party.

Mr. Badowski is a recipient of the Meritorious Service Medal of Canada (2002) as well as the Prague Medal from the Government of Romania (2003). He is also the former chairperson of the Heads of Federal Administrative Tribunals Forum. He holds a bachelor of science degree from the University of Toronto and is currently studying towards a master of science degree.

TRIBUNAL MEMBERS – PART-TIME

Tribunal Members

TRIBUNAL MEMBERS – PART-TIME

The following is a complete list of part-time Members who served on the Tribunal in fiscal year 2015-2016. Of these Members, two retired, four reached their end-of-mandate, and one was re-appointed during the year.

Christopher J. Brooks
Kanata, Ontario

Appointed to a part-time term of three years on April 10, 2014.

Dr. Christopher Brooks is a physician, scientist and inventor. Dr. Brooks has 47 years of experience as a physician in the navy, in industry and in private practice. His background includes a wide range of positions such as medical officer onboard a nuclear submarine, flight surgeon, commanding officer for the Royal Canadian Navy at Stadacona Hospital in Halifax, and command surgeon for both the Canadian Air Command and the Canadian Maritime Command. For 11 years, he was the Director of R&D at Survival Systems Ltd., Dartmouth, N.S., where he introduced emergency breathing systems into helicopters for the Canadian offshore oil industry. Currently, he is a consultant in occupational medicine for the Transportation Safety Board of Canada and the Department of National Defence. Among the awards Dr. Brooks has received are the Order of Military Merit, Queen's Jubilee Medal and the Canadian General Standards Board's highest achievement award for his work on survival suits and life jackets. In addition, he has published over 70 books, reports and papers on occupational health and safety issues.

Brad M. Caldwell
Vancouver, British Columbia

Reappointed to a part-time term of three years on April 10, 2014.

Mr. Caldwell holds a Bachelor of Laws degree from the University of Victoria Law School and an advanced mediation certificate. He has practiced law since his admission to the British Columbia Bar in 1986, with an emphasis on maritime and fisheries litigation, general commercial litigation and administrative law. Prior to his legal career, Mr. Caldwell gained practical experience in the marine industry as a fisherman, deckhand, commercial diver and longshoreman. His professional associations include the Canadian Maritime Law Association, the Law Society of British Columbia and the Marine Insurance Association of British Columbia.

Caroline Desbiens
Sainte-Foy, Québec

Reappointed to a term of three years on June 18, 2015.

A lawyer since 1988, she works principally in the areas of aviation and maritime law. Ms. Desbiens received a law degree from the University of Laval in 1987, and a diploma in International Law and Comparative Law from the University of San Diego in 1988. Ms. Desbiens received a Master's degree in Air and Space Law from McGill University in 1993. A member of the Barreau du Québec, Ms. Desbiens is also a member of the Canadian Bar Association, the Association québécoise des transporteurs aériens, the Institute of Air and Space Law Association, the Canadian Maritime Law Association and the Chambre de commerce de Québec.

Patrick Terrence Dowd

Port Colbourne, Ontario

Reappointed to a part-time term of three years on June 18, 2013.

Captain Dowd holds a Bachelor of Arts from the University of Toronto and a Bachelor of Laws from the University of Windsor. He served as an Air Force Officer, a Flight Instructor and Transport Pilot in Europe. He simultaneously performed duties as a pilot and assisted with the responsibilities of Counsel to Air Canada. He entered private practice as an Associate to the firm of Helson, Kogan, Ashbee, in Georgetown, Ontario, where he eventually became a sole practitioner. After his career at Air Canada, he was invited to join Skyservice Airlines and rose to become Chief Pilot, and later Director of Flight Operations. Captain Dowd was invited by Boeing to join Alteon, their training company in Korea, as an Airbus instructor, where he became a Check Pilot for the Korean Government on A320/321 and A330 aircraft. He holds a current Korean Airline Transport Pilot's Licence and a renewable Canadian Airline Transport Pilots Licence.

Gary Drouin

Chelsea, Québec

Appointed to a term of four years on November 22, 2012.

Mr. Drouin of Chelsea, Quebec, has over 30 years of experience in management and administration at Transport Canada, where he has specialized in rail safety. In his daily work, and as president of an international symposium, Mr. Drouin has actively promoted level crossing safety and trespass prevention though outreach and education. Through his skill in facilitating international partnerships, sharing knowledge, and fostering collaboration on projects, he has contributed to Canada being recognized as a world leader in railway safety. Mr. Drouin has received several prizes for excellence, including one from l'Association du transport écolier du Québec for his work on school transport safety. He has been a member of a number of organizations including the Federation of Canadian Municipalities and the Canadian Association of Police Chiefs.

Mark A.M. Gauthier

Gatineau, Québec

Appointed to a part-time term of four years on March 1, 2012.

Mr. Gauthier received a Bachelor of Laws Degree from the University of Ottawa, Faculty of Common Law, in 1972 and was called to the Bar of the Law Society of Upper Canada in 1974. He was engaged in the general practice of law from his call to the Bar until he joined Justice Canada in 1982. Mr. Gauthier practiced maritime law in the Legal Services Unit of Transport Canada as Counsel and as Senior Counsel from 1982 until 2005 and thereafter as the General Counsel of the Maritime Law Secretariat until he retired in June 2011. During his career, he provided general legal services to the marine sector of Transport Canada and, in particular, was responsible for the development of major marine legislative and regulatory initiatives such as the *Canada Shipping Act, 2001*, and the *Marine Liability Act*. Mr. Gauthier also represented Canada for many years as Head of Delegation to the Legal Committee of the International Maritime Organization and as Alternate Head of Delegation to the International Oil Pollution Compensation Funds. While acting in those positions, he was involved in the negotiation and adoption of several international shipping treaties, many of which were implemented subsequently into Canadian law. Mr. Gauthier is a member of the Law Society of Upper Canada, an Honorary Life Member of the Canadian Maritime Law Association and a Titulary Member of the Comité Maritime International.

Trevor Allan Gillmore

Kleinburg, Ontario

Reappointed to a part-time term of five years on May 9, 2011.

Dr. Gillmore holds a Doctor of Medicine Degree from McMaster University. In 2008, he received his Fellowship in Occupational Medicine and completed a Master's Degree in Aviation Medicine through Otago University in New Zealand. He currently serves as a Provincial Coroner for Ontario. He is also a Flight Surgeon and Pilot for Air Canada and a Medical Support Specialist for the Transportation Safety Board of Canada. He was previously an Emergency Room Physician at three Greater Toronto Area hospitals. He has worked and trained extensively in the forensic sciences field and is a member of a number of committees and associations, including the College of Physicians and Surgeons of Ontario and the Canadian Aerospace Medical Association.

David G. Henley

Halifax, Nova Scotia

Reappointed to a part-time term of three years on October 30, 2014.

Mr. Henley is vice-president and general counsel at Irving Shipbuilding Inc. Prior to joining Irving Shipbuilding, he was a partner in the Halifax office of the law firm of Stewart McKelvey for 14 years. He is a graduate of the University of New Brunswick (Bachelor of Business Administration in 1989 and Bachelor of Laws in 2000) and Dalhousie University (Master of Laws in Marine and Environmental Law in 2003). After a career in the army as an artillery officer, Mr. Henley was admitted to the Nova Scotia Bar in 2001. He retired from the Canadian Army Reserve as a Brigadier–General in 2015 with 30 years of service. After returning from a tour in Afghanistan in 2010, he was awarded the Bronze Star Medal by the United States and invested as a Member of the Order of Military Merit by the Governor General. Mr. Henley is a past chair of the Marine Practice Group of Stewart McKelvey and of the CBA Environmental Law Subsection, Nova Scotia. He has written, presented and published papers on a variety of marine and environment-related subjects. Mr. Henley is an Associate of the Marine Environmental Law Institute and a member of the part-time faculty at the Schulich School of Law where he taught Fisheries Law from 2004 to 2015.

C. Michael Keefe

Mount Pearl, Newfoundland and Labrador

Reappointed to a part-time term of four years on September 29, 2011.

Mr. Keefe graduated from the Canadian Coast Guard College in 1974. He is a retired Professional Engineer who practiced in the Province of Newfoundland and Labrador. He holds a Certificate of Competency issued by the Government of Canada as a First Class Marine Engineer. Mr. Keefe spent several years with the Canadian Coast Guard serving as a Ship's Engineering Officer and Chief Engineer and later ashore, as the Supervisor of Engineering for the Newfoundland Region. He then spent several years with Transport Canada Marine Safety as the Manager of Examinations and Enforcement for the Atlantic Region. He has held ministerial appointments with Marine Safety as a Steamship Inspector, Examiner of Engineers, Pollution Prevention Officer and Health and Safety Officer. Since 2006, Mr. Keefe has been employed as Manager of Marine Fleet Maintenance with Diesel Injection Sales & Service Ltd. of Mount Pearl in Newfoundland.

TRIBUNAL MEMBERS – PART-TIME

Sarah M. Kirby
Halifax, Nova Scotia

Appointed to a part-time term of four years on April 5, 2012.

Sarah Kirby was admitted to the Nova Scotia Barristers' Society as Barrister and Solicitor in 2000. She is currently the Assistant Dean, Student Services at the Schulich School of Law at Dalhousie University. From 2000 until 2011, she practiced law in various firms in Nova Scotia and made appearances in the Federal Court of Canada, the Nova Scotia Supreme Court and the Nova Scotia Provincial Court. Ms. Kirby is a member of the Canadian Maritime Law Association, the Women's International Shipping and Trading Association and the Eastern Admiralty Law Association.

Herbert Lee
Richmond, British Columbia

Reappointed to a part-time term of three years on October 30, 2014.

Mr. Lee is the managing director of LTA Holidays (Canada) Ltd., a Vancouver-based IATA travel agency. He is also a private pilot and a certified travel manager. Mr. Lee is a member of the Richmond Chamber of Commerce, the Hong Kong Aviation Club, the Royal Canadian Mounted Police Advisory Committee for Multiculturalism in Richmond, and the Consumer Protection of British Columbia Advisory Committee. Mr. Lee is a former Air Crew member (volunteer) for the Royal Hong Kong Auxiliary Air Force, and a former Assistant Superintendent of Hong Kong Air Terminal Services Ltd. for Hong Kong Kai Tak Airport. He has studied at Simon Fraser University, the Hong Kong Polytechnic University and the Royal Navy School in the United Kingdom.

Barrie LePitre
Gloucester, Ontario

Reappointed to a part-time term of four years on December 3, 2011.

Mr. LePitre holds a Bachelor of Arts Degree from Carleton University in Ottawa, and a Bachelor of Laws Degree from Osgoode Hall Law School of York University in Toronto. He began his career in 1977 as counsel for the Commercial and Property Law Section of the Regional Office of Justice Canada in Toronto, Ontario. In 1983, he began serving as counsel with the Department's Legal Services offices in Ottawa. During a 30-year career until his retirement in 2007, Mr. LePitre provided legal services to many client departments. Of special note is his service as general counsel for Transport Canada from 1996 to 2007, during which time he provided a wide range of advisory legal services with respect to the marine component of Transport Canada, particularly concerning the *Canada Marine Act*. Mr. LePitre is a member of the Law Society of Upper Canada and a Notary Public for the Province of Ontario.

J. Ed Macdonald

Pictou County, Nova Scotia

Appointed to a part-time term of four years on December 13, 2012.

Mr. Macdonald is a retired commercial aviation pilot whose 31 years of employment with several major airlines reflects an outstanding record of performance, reliability and commitment. He retired as a captain from Air Canada after flying on domestic and international routes on various passenger aircraft. During his career, Mr. Macdonald amassed 18,000 flight hours, an achievement that required both a high level of technical skill, and strong team-building and leadership abilities. A graduate of Rothesay Collegiate in New Brunswick, Mr. Macdonald was born in New Glasgow, Nova Scotia and lives in Pictou County, where he is active in the community as a volunteer.

Elizabeth MacNab

Ottawa, Ontario

Reappointed to a part-time term of four years on December 3, 2011.

Ms. MacNab holds a Bachelor of Laws Degree from the University of Toronto, a Diploma in Legislative Drafting and a Licentiate in Laws Degree from the University of Ottawa. She was called to the Bar of Ontario in 1967. She began her legal career as Counsel for a private law firm and participated in studies with the Law Reform Commission of Ontario. From 1981 to 1986, she worked as a Legislative Officer with Transport Canada's *Aeronautics Act* Task Force. In 1986, she moved to Transport Canada's Aviation group, where she oversaw the preparation of draft regulations for review by Justice Canada, and provided policy advice on amendments to Federal Transportation Acts. In 1990, she became Counsel for Transport Canada, providing legal advice on matters relating to various modes of transportation and administrative law. Ms. MacNab also represented Transport Canada at international conferences and committees on aviation-related matters.

Tracy Medve

Kelowna, British Columbia

Appointed to a part-time term of three years on October 30, 2014.

Ms. Medve is President of the Kelowna Flightcraft Group of Companies and prior to this was President of Canadian North Airlines in Yellowknife. Since 1985, she has held various senior airline management positions at Norcanair, Time Air, and Canadian Regional Airlines. Prior to joining Canadian North in 2007, she was the co-founder of C.T. AeroProjects, a Calgary based consultancy focused on air transport resource management. A lawyer by training, she also graduated from the John Molson School of Business Global Aviation MBA program at Concordia University in 2009. Ms. Medve is the current Chair of the Air Transport Association of Canada (ATAC) and the first woman in Canada to be inducted as an Honourary Life Member. She sits as a member of the University of British Columbia, Okanagan External Community Advisory Council. She is also a past member of the Transportation Appeal Tribunal of Canada, having served from 2003 to 2006.

Arnold Marvin Olson

Langley, British Columbia

Appointed to a part-time term of four years on March 1, 2012.

Mr. Olson, Captain (ret.), recently completed a 32-year flying career, retiring as an approved check pilot – Boeing 767, based in Vancouver, and flying international routes. His previous assignments have included a management position as senior check pilot – Embraer 170/190, a training captain – Airbus 320, and a crew resource management facilitator conducting courses dealing with issues of pilot judgment. A graduate of Simon Fraser University (B.Sc.), Mr. Olson has attended various industry courses, such as: Human Factors in Aviation, Aviation Safety Program Management, and Conflict Resolution in the Workplace. He has served as Director, Trinity Western University Institute of Aviation. He is the founder of the Air Canada Pilots Bone Marrow Registry Program. He has received the Honouring Our Lifeblood Award from Canadian Blood Services and the Award of Excellence from Air Canada. He founded and chaired the Canadian Cancer Society Langley Relay for Life, was Chair of the 2013 Special Olympics BC Summer Games Organizing Committee and has served as the treasurer of Hope International Development Agency.

James R. Parsons

St. John's, Newfoundland and Labrador

Appointed to a part-time term of four years on June 21, 2012.

Mr. Parsons is a director, coordinator and lecturer at the Fisheries and Marine Institute of Memorial University, and he has held these positions since 1997. He has been responsible for the development and delivery of oil tanker, floating production storage and offloading, mobile offshore drilling unit, and marine regulatory awareness training programs for clients working with the Hibernia and Terra Nova projects. Previously, Mr. Parsons was a marine consultant at Bateman Chapman (Canada) Ltd. and he owned OTI Canada Group, a company involved in marine surveying, cargo inspections and safety and pollution control. Currently he owns a marine consultancy called Global Marine Solutions. He is a Master Mariner with significant experience in Canadian Arctic waters and, among his many degrees, he has a PhD in marine transportation and economics from the University of Plymouth in England, and a bachelor of maritime studies from Memorial University.

Robert Perlman
Montreal, Québec

Appointed to a part-time term of five years on April 5, 2012.

Dr. Perlman holds degrees in psychology and medicine from McGill University. He is certified in family medicine, is a fellow of the College of Family Physicians of Canada (CFPC) and is certified in aviation medicine from King's College, London, United Kingdom. He is currently the chief executive officer and director of Mediservice, a medical clinic he founded in 1984 that provides commercial pilot and air traffic controller licensing exams for Canada, the United States, the United Kingdom and Europe. Dr. Perlman is also an attending physician and an associate professor of family medicine at the Jewish General Hospital in Montreal.

Alex Phillips
Edmonton, Alberta

Appointed to a part-time term of four years on June 21, 2012.

Mr. Phillips, of Edmonton, is a Director of Regulatory Strategy at ATCO Electric Transmission. He provides legal and strategic policy advice on the activities of Alberta's regulatory agencies and their governing legislation to help develop Alberta's electricity transmission network in a safe and efficient manner. He has over 25 years of experience providing legal counsel and policy advice on transportation network matters, including deregulation, aviation licensing, export trade competitiveness and transport safety regulation. Among Mr. Phillip's qualifications are a bachelor of laws from the University of Manitoba, master of laws in international air law and deregulation from the London School of Economics, and a doctorate of juridical science in competitive network access rights from Bond University, Australia.

Franco Pietracupa
Dollard-des-Ormeaux, Québec

Reappointed to a part-time term of four years on October 4, 2012.

Mr. Pietracupa received his College Diploma in Aeronautical Pilot Instruction in 1997. He has worked for various companies in aviation, including CESPA Flight College, and held the position of Class 1 instructor/chief flight instructor from 1997 to 2000 in different flight training organizations. With his extensive experience as a flight instructor and operator, he was designated as a flight test examiner with Transport Canada. Since April 2011, Mr. Pietracupa has held the position of Chief Pilot, Business Customer Liaison Pilots at Bombardier Aerospace in Montreal.

TRIBUNAL MEMBERS – PART-TIME

George E. Pugh
Vancouver, British Columbia

Appointed to a part-time term of five years on March 1, 2012.

Dr. Pugh is a Consultant in Emergency Medicine and has been an Emergency Physician at Providence Healthcare Society in Vancouver since 1994. He has worked at Mount St. Joseph Hospital in Vancouver, where he filled various positions, including director of Emergency, head of the Department of Family Practice and emergency physician. Dr. Pugh is a member of the Royal College of Physicians and Surgeons of Canada, the Canadian Medical Association, the British Columbia Medical Association, the Canadian Association of Emergency Physicians and the College of Family Physicians of Canada. His areas of special interest and accomplishment include aviation (commercial fixed and rotary wing pilot), maritime transportation (cruise ship medicine) and road transportation.

Suzanne Racine
Kirkland, Québec

Reappointed to a part-time term of four years on December 13, 2012.

Ms. Racine, a lawyer since 1980, holds a Licence in Civil Law from the University of Ottawa (1979), Mediator training (1992), and a Master's Degree from the Institute of Air and Space Law, McGill University (1987). She was a director of Regulatory and Government Affairs at Air Transat and has acted as a consultant in the areas of travel and air transport. Ms. Racine is a Member of the Barreau du Québec and the Institute of Air and Space Law Association.

Stephen Rogers
Vancouver, British Columbia

Reappointed to a part-time term of three years on January 30, 2014.

Mr. Rogers was a Member of the British Columbia Legislative Assembly for 16 years. He served as a cabinet minister in several portfolios, including Minister of Transportation and Highways, and as Speaker and Deputy Speaker of the House. He began his career as a pilot with the Royal Canadian Air Force and flew commercial aircraft with Air Canada prior to and after his career in politics.

Laura Safran
Calgary, Alberta

Appointed to a part-time term of four years on April 25, 2013.

Ms. Safran, Q.C. is a senior partner at the law firm Davis LLP in Calgary specializing in corporate and commercial, intellectual property and technology law. She is also the head of Davis LLP's national aviation law practice, and co-head of their education law practice. Prior to that, she was a partner at Fraser Milner Casgrain LLP from 1996 to 2010. She has held other executive positions as vice-president, law and corporate secretary of Canadian Airlines International from 1989 to 1995. Ms. Safran is a member of the law societies of Alberta and British Columbia. She holds an L.L.M. (doctorate of jurisprudence program) from Columbia University, an L.L.M. from the London School of Economics, an L.L.B. from Osgoode Hall, York University, and a bachelor of arts with distinction from the University of Alberta. She was named one of Canada's Most Powerful Women by *The Globe and Mail* in 2004, as well as one of the leading women lawyers in Canada in 2009 by the *Canadian Legal Lexpert Directory*.

John M. Sehmer
Vancouver, British Columbia

Appointed to a part-time term of three years on April 10, 2014.

Dr. Sehmer is a Clinical Assistant Professor at the University of British Columbia Medical School in the Department of Family Practice, runs his own general practice, specializing in industrial medicine, and is a staff member at Vancouver General Hospital. He has extensive experience as a certified medical examiner for the marine and air sectors (pilots). In addition Dr. Sehmer is a medical advisor for Great West Life and Desjardins, an occupational medicine consultant for corporations such as the Canadian Imperial Bank of Commerce, Petro-Can/Suncor and Chevron, and is co-chair of the British Columbia Medical Association's WorksafeBC Liaison Committee. Dr. Sehmer has published numerous articles in the Canadian Medical Association Journal and other journals and is a fellow of the Canadian Board of Occupational Medicine.

Abdo Shabah
Montreal, Québec

Appointed to a part-time term of five years on March 1, 2012.

Dr. Shabah received a Doctorate in Medicine in 2002 from the University of Montréal, as well as a diploma in General Medicine from the same institution in 2005. From 2005 until 2008, Dr. Shabah practiced in Kuujjuaq, Quebec, while also undertaking an M.A. in Public Health. He also completed a PhD in Public Health and Preventative Medicine in 2010 from the University of Montréal, and he successfully completed an MBA from McGill and HEC-Montreal. In addition, he was awarded the Governor General of Canada Medal of Excellence in 1995. Dr. Shabah currently works at Hôpital Enfant-Jésus in Emergency Medicine – Aeromedical Evacuation. He also practices Emergency Medicine at CSSS Cœur de l'Île, and he works as director of Professional Services and Medical Affairs at CSSS Pointe-de-l'Île in Montréal. Dr. Shabah continues to participate regularly in humanitarian missions, and he has been deployed on numerous occasions for humanitarian efforts in Haiti.

Charles Sullivan

Kanata, Ontario

Appointed to a part-time term of three years on October 30, 2014.

Mr. Sullivan is an independent business strategist who advises on aviation, aerospace and security. He joined the private sector in 2009 as Chief of Operational Safety Oversight for Canada's air navigation service provider, following a distinguished 31-year career in the Royal Canadian Air Force. This included, prior to his retirement, a 12-month tour of duty in Afghanistan at the rank of Major-General in key leadership positions as Commander of NATO's Air Component and as Deputy Chief of Joint Operations. Previously, Mr. Sullivan held senior executive positions, such as Director-General of Capability Development at the Department of National Defence Headquarters in Ottawa; and Director of International Security and Senior Defence Advisor in the Prime Minister of Canada's Privy Council Office. In addition, Mr. Sullivan has substantial operational experience in aviation. As a fighter pilot he accumulated over 3500 flying hours flying jet aircraft and flew operational missions over Europe, the Persian Gulf, Bosnia, Croatia, Kosovo, Canada's high Arctic and the North Atlantic.

Yves Villemaire

Stittsville, Ontario

Reappointed to a part-time term of three years on May 14, 2014.

Mr. Villemaire is a graduate of the Canadian Coast Guard College. He started his career as a ship's officer and served in various parts of the country in a number of shipboard and shore positions. He holds a Canadian Coast Guard Command Certificate and an MBA from Queen's University. He retired from the Canadian Coast Guard in 2007, where he held a number of executive positions including Director General, Fleet, Director General, Maritime Services, and Executive Director of the Canadian Coast Guard College in Sydney, Nova Scotia. Prior to holding these positions, he was Director General, Human Resources for two years with the Department of Fisheries and Oceans. This followed a three-year appointment as Director, Early Conflict Resolution Office, a service he established for the Deputy Minister. Mr. Villemaire is currently a management consultant on a part-time basis.

Richard Willems

Alton, Ontario

Reappointed to a part-time term of three years on March 6, 2014.

Mr. Willems is the Senior Captain Flying a Canadair Challenger for Rogers Communications in Toronto. His flying career began in central Saskatchewan in 1963 and has continued through North, Central and South America as well as Africa, Asia and Europe. Mr. Willems has held Transport Canada check pilot authority since 1976 on various piston, turbo-prop and jet aircraft. He has accumulated over 23 000 hours on 124 types of airplanes and gliders.

2015-2016 IN REVIEW

Activities

This annual report covers the twelve months between April 1, 2015 and March 31, 2016. In this reporting period, the Tribunal registered **133** new requests for review (**85** aviation, **43** marine, **5** rail), and **4** requests for appeal (**3** aviation and **1** marine). Additionally, **10** requests for certificates were received from the Minister, pursuant to section 7.92 of the *Aeronautics Act*.

In this reporting period, the Tribunal registered 137 new requests for review and appeal.

In addition to the new cases registered in this reporting period, **154** cases were carried over from the previous reporting period, bringing the total caseload to **291**. This represents a decrease of **20** cases over the fiscal year 2014-2015.

The Tribunal heard **21** Reviews (**12** aviation, **7** marine and **2** rail) and **6** Appeals (**3** aviation and **3** marine) for a total of **34** hearing days. At the end of 2015-2016, **117** cases were pending further action, **6** were awaiting decisions and **16** had been scheduled for the 2016-2017 fiscal year.

In the 2015-2016 reporting period, **123** cases were concluded without a hearing. It should be noted that of these cases, many were requests filed with the Tribunal and concluded shortly before the hearing was to take place, which means that all registry work that leads up to the hearing was completed.

The **123** cases concluded without a hearing were resolved in a number of ways: the document holder paid the fine before the hearing commenced; the document holder's licence was reinstated before the hearing; the request for hearing was withdrawn by the document holder; the notice was withdrawn by the Minister; or an agreement was reached between the parties.

Effectiveness

The Tribunal's effectiveness can be measured by its ability to provide the Canadian transportation community with the opportunity to have Ministerial decisions reviewed fairly, equitably and within a reasonable period of time.

The time elapsed between the conclusion of hearings and the issuance of determinations was further reduced this year.

The average lapsed time in 2015-2016 between the conclusion of a Review Hearing and the issuance of a determination is **85.3** days (a decrease of 23 per cent from last year).

The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal, and to disclose and exchange documents. This reduces the length of hearings and avoids last-minute adjournments necessitated by late disclosure of information.

In 2014-2015, the Tribunal had referred **5** cases (**4** aviation and **1** marine) back to the Minister of Transport for reconsideration. We are awaiting the outcome in all of these cases.

In 2015-2016, the Tribunal referred **4** cases back to the Minister for reconsideration (**3** aviation and **1** marine). We are awaiting the outcome in all of these cases.

2015-2016 IN REVIEW

Training and Development

When new Members are appointed, they receive in-house training in all aspects of administrative law and the conduct of hearings. Additionally, Members receive monthly professional development and case law updates, and Legal Counsel is available to assist during pre-hearing, hearing and post-hearing matters. Members and staff are encouraged to undergo annual professional education.

Training resources for Members and staff are available in various formats, including online, electronic and traditional published formats. Communication with Members is continuous and there are also monthly communications from the Chairperson regarding the Tribunal's business and legal updates.

The Tribunal is committed to providing continuous learning opportunities to all current and new Members. This year, some of our Members and staff attended several learning events: the Annual Symposiums and Adjudication and Decision Writing courses from the Council of Canadian Administrative Tribunals (two Members); the B.C. Administrative Tribunal Conference (one Member); a conference of the Canadian Institute for the Administration of Justice (one Member); and an Editing course from the Editors' Association of Canada (one staff member).

In addition, the Tribunal implemented a new initiative to deliver webinars on a monthly basis, for enhanced professional development, while continuing to provide traditional learning opportunities. This combined approach helps Members to maximize their effectiveness in the adjudicative process, to keep abreast of developments in administrative law and the federal transportation sector, and to render decisions according to the values and expected outcomes mandated to the Tribunal.

The Tribunal's success can, in great part, be attributed to the importance placed on the training and development of its Members and staff. The Tribunal also continued its university internship program and retained students who, through a number of projects, gained valuable work experience in their fields of study.

Public Outreach

Mr. John Badowski served as vice-chair, and subsequently as chairperson, of the Heads of Federal Administrative Tribunals Forum (HFATF). One major project undertaken by the HFATF was a study involving the other administrative tribunals, in an effort to coordinate and unify new member training.

Mr. Badowski attended the Air Line Pilots Association (ALPA) meeting held in Washington D.C., where aviation concerns were raised and discussed, in particular the dangers of transporting explosive cargo on passenger aircraft. He was also invited to make a presentation to the Tanzanian Surface and Marine Transport Regulatory Authority regarding the legal structure of the Tribunal and its function in the Canadian transportation sector. In addition, Mr. Badowski was invited to speak to the Air Transport Association of Canada (ATAC) regarding the processes involved in, and statistics pertaining to, appearances before the Tribunal.

Other outreach initiatives included the publishing of sector-specific articles to raise awareness among members of the transportation community concerning their right to Review and Appeal hearings. The Tribunal has published ten articles in marine and aviation magazines, and two articles in rail magazines.

In partnership with Trinity Western University, the Tribunal employed two student interns. Mr. Aaron Gubeli, of British Columbia, drafted a *Handbook for Unrepresented Applicants* which is being prepared for use. The Tribunal intends to provide the handbook to anyone appearing before the Tribunal for guidance through the adjudicative process. Ms. Cassidy Newfield, of Alberta, conducted a survey of all applicants who appeared before the Tribunal over the past five years. Her study showed that more than 80 per cent

of the applicants felt they were treated fairly and professionally, regardless of the outcome of their hearings. This review was conducted in honour of the Tribunal's 30th anniversary.

Another survey, conducted by Ms. Nancy Konan-Waidhet, Executive Assistant to the Chairperson, looked at the outcome of all medical hearings brought to completion before the Tribunal. The results provided a detailed snap-shot of the medical matters commonly brought forward, and have provided the basis for a change in legislation which the Tribunal is pursuing.

The Tribunal also formed a partnership with the University of Ottawa's Law faculty and engaged, for the first time, a second-year law student, Mr. Joseph Fiorino, who assisted with the writing of new policies and procedures for the Tribunal. Another law student, Mr. Rohan Mathai, subsequently began a review of the legal impacts of new legislation on the Tribunal. In cooperation with other Ottawa-area tribunals, Mr. Badowski assisted with the training of several articling students and participated in a moot court.

Finally, the Chairperson is proud to announce that the Tribunal fielded a team of runners who participated in the Government of Canada Workplace Charitable Campaign. The three runners from headquarters were Mrs. Jacqueline Corado, Legal Counsel; Ms. Nancy Konan-Waidhet, Executive Assistant; and Mr. Sylvain Gauthier, Editor.

Results and Future Plans

Quality and constant professional development for Members and employees will remain important aspects of the Tribunal's operations. In order to deliver on its mandate and program objective, the Tribunal needs to have an adequate number of Members with the right mix of skills and talents in various modes of the transportation sector, as well as legal and medical expertise.

As well, the Tribunal is working on recommendations to amend its legislative authority in order to better meet the needs of the parties, in particular: holding one-person appeal panel hearings as needed and revised authority for Members in licensing and medical cases.

In addition, the Tribunal is studying the possibility of conducting hearings by videoconferencing where feasible and practical. This would facilitate the scheduling of hearings in an expeditious manner and deliver timely opportunities for Canadians to have a hearing.

Finally, the Tribunal remains committed to prompt scheduling of hearings to further help reduce case delays. Through a more efficient approach to scheduling, it will be better positioned to meet its mandate; a new scheduling policy will be implemented, requiring Review hearings to be held within 60 days of the date of application for review. The Tribunal will also maintain its commitment to deliver written decisions within a reasonable timeline.

Resources

2015-2016 DETAILS OF FINANCIAL RESULTS BY OBJECT		
(Thousands of dollars)	**Actual Expenses 2014-2015**	**Actual Expenses 2015-2016**
GOODS AND SERVICES		
Transport-Communications (02)	96.50	73.90
Information (03)	0.00	16.20
Professional Services (04)	181.00	115.90
Rentals (05)	22.80	19.50
Repair & Maintenance (06)	0.10	0.20
Materials & Supplies (07)	4.90	5.10
Machinery & Equipment (09)	0.00	2.40
Total Goods and Services	305.30	233.20
PERSONNEL		
Salaries and Wages	480.60	1,002.00
Contributions to Employee Benefit Plans - Note 1	70.40	160.08
Total for Personnel	551.00	1,162.08
GRAND TOTAL	**856.30**	**1,395.28**

NOTE 1: EBP* RATIO CALCULATION	
Total salaries and wages for ATSSC (dollars)	54,098,907
Total EBP charged for ATSSC (dollars)	8,642,949
EBP RATIO	**15.976%**

* EBP = Employee Benefit Plans

STATISTICAL DATA

The following pages contain data tables, based on the Tribunal's new requests received during 2015-2016 and files carried over from 2014-2015.

The tables are presented according to various interests and categories:

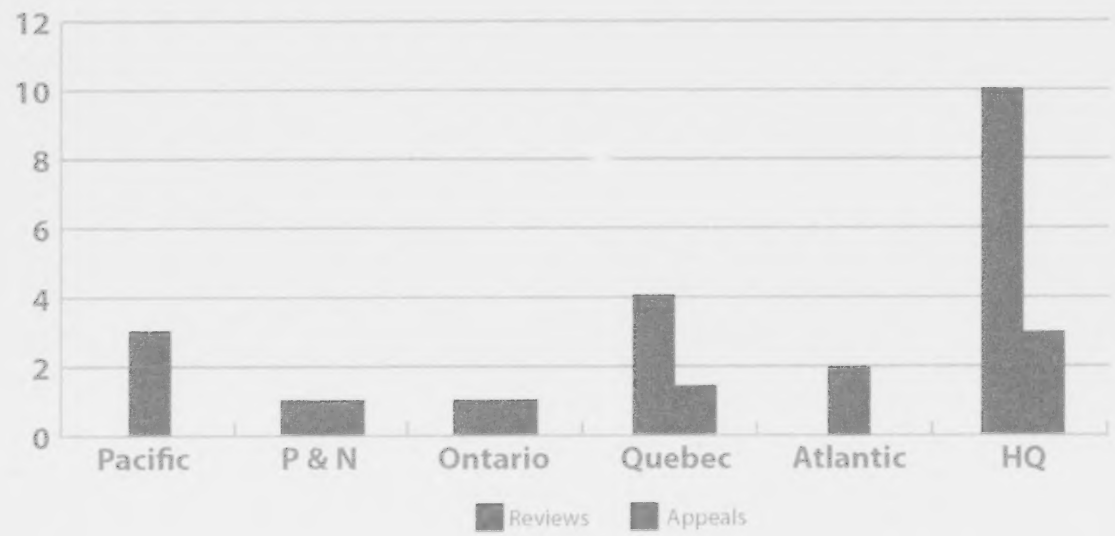
- Total cases by category
- Reviews and Appeals concluded with a Hearing
- Hearings by category
- Hearing results by disposition
- Medicals
- Suspensions
- Fines
- Cancellations
- Refusals to issue
- Refusals to remove a notation

STATISTICAL DATA

TOTAL CASES BY CATEGORY								
CATEGORY	**PACIFIC**	**P&N***	**ONTARIO**	**QUEBEC**	**ATLANTIC**	**HQ**	**TOTALS**	**%**
MEDICALS								
Aviation	10	11	29	18	8	6	**82**	
Marine	0	0	0	0	0	56	**56**	
Total							**138**	**47.4%**
SUSPENSIONS								
Aviation	3	2	0	1	1	0	**7**	
Total							**7**	**2.4%**
ORDERS								
Rail	0	0	0	0	0	4	**4**	
Total							**4**	**1.4%**
FINES								
Aviation	8	5	11	30	7	1	**62**	
Marine	0	1	3	19	6	0	**29**	
Rail	0	0	0	0	0	2	**2**	
CTA	0	0	0	0	0	0	**0**	
Total							**93**	**32.0%**
REFUSALS TO ISSUE								
Aviation	7	3	3	5	2	7	**27**	
Marine	0	0	0	0	0	22	**22**	
Total							**49**	**16.8%**
TOTALS (All categories)	**28**	**22**	**46**	**73**	**24**	**98**	**291**	
%	**9.4%**	**9.1%**	**18.1%**	**21.7%**	**7.1%**	**34.6%**	**100%**	

*P&N = Prairie and Northern

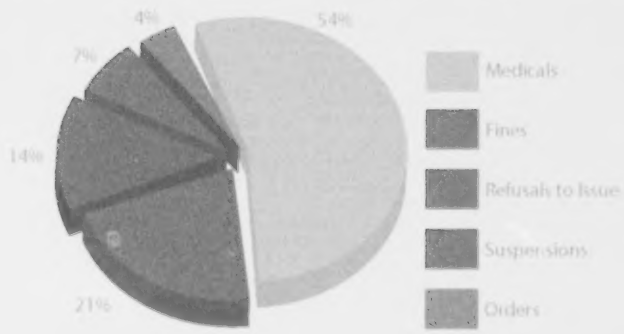
REVIEWS AND APPEALS CONCLUDED WITH A HEARING								
HEARING LEVEL	**PACIFIC**	**P&N**	**ONTARIO**	**QUEBEC**	**ATLANTIC**	**HQ**	**TOTALS**	**%**
REVIEWS								
Aviation	3	1	1	4	2	1	12	
Marine	0	0	0	0	0	7	7	
Rail	0	0	0	0	0	2	2	
TOTAL							21	77.8%
APPEALS								
Aviation	0	1	1	1	0	0	3	
Marine	0	0	0	0	0	3	3	
TOTAL							6	22.2%
TOTALS (Reviews and Appeals)	3	2	2	5	2	13	27	
%	**11.1%**	**7.4%**	**7.4%**	**18.6%**	**7.4%**	**48.1%**	**100%**	



STATISTICAL DATA

TOTAL HEARINGS BY CATEGORY							
CATEGORY	**PACIFIC**	**P&N**	**ONTARIO**	**QUEBEC**	**ATLANTIC**	**HQ**	**TOTALS**
MEDICALS							
Aviation	3	2	0	0	0	0	**5**
Marine	0	0	0	0	0	10	**10**
TOTAL							**15**
SUSPENSIONS							
Aviation	0	0	0	1	0	0	**1**
TOTAL							**1**
FINES							
Aviation	0	0	2	2	1	0	**5**
Rail	0	0	0	0	0	1	**1**
TOTAL							**6**
ORDERS							
Rail	0	0	0	0	0	1	**1**
TOTAL							**1**
REFUSALS TO ISSUE							
Aviation	0	0	0	2	1	1	**4**
TOTAL							**4**
TOTALS (All categories)	**3**	**2**	**2**	**5**	**2**	**13**	**27**

Percentages of Hearings by Category



HEARING RESULTS BY DISPOSITION							
DISPOSITION	PACIFIC	P&N	ONTARIO	QUEBEC	ATLANTIC	HQ	TOTALS
SUSPENSIONS (Aviation)							
Awaiting Decision							
Aviation	0	0	0	1	0	0	1
TOTALS (Suspensions)	**0**	**0**	**0**	**1**	**0**	**0**	**1**

DISPOSITION	PACIFIC	P&N	ONTARIO	QUEBEC	ATLANTIC	HQ	TOTALS
FINES (Aviation-Rail)							
Minister's allegation upheld; sanction confirmed							
Aviation	0	0	1	0	0	0	1
Minister's allegation upheld; sanction increased							
Aviation	0	0	1	0	0	0	1
Minister's allegation dismissed							
Rail	0	0	0	0	0	1	1
Minister's appeal dismissed; sanction cancelled							
Aviation	0	0	0	1	0	0	1
Awaiting decision							
Aviation	0	0	0	1	1	0	2
TOTALS (Fines)	**0**	**0**	**2**	**2**	**1**	**1**	**6**

STATISTICAL DATA

DISPOSITION	PACIFIC	P&N	ONTARIO	QUEBEC	ATLANTIC	HQ	TOTALS
MEDICALS (Aviation-Marine)							
Minister's decision upheld							
Aviation	1	1	0	0	0	0	2
Marine	0	0	0	0	0	5	5
Referred back to the Minister							
Aviation	2	0	0	0	0	0	2
Marine	0	0	0	0	0	1	1
Appeal dismissed; Minister's decision upheld							
Aviation	0	1	0	0	0	0	1
Marine	0	0	0	0	0	2	2
Awaiting decision							
Aviation	0	0	0	0	0	0	0
Marine	0	0	0	0	0	2	2
TOTALS (Medicals)	**3**	**2**	**0**	**0**	**0**	**10**	**15**

DISPOSITION	PACIFIC	P&N	ONTARIO	QUEBEC	ATLANTIC	HQ	TOTALS
REFUSALS TO ISSUE (Aviation)							
Referred back to the Minister							
Aviation	0	0	0	0	0	1	1
Minister's decision upheld							
Aviation	0	0	0	2	0	0	2
Request for review withdrawn at hearing							
Aviation	1	0	0	0	0	0	1
TOTALS (Refusals to issue)	**1**	**0**	**0**	**2**	**0**	**1**	**4**

DISPOSITION	PACIFIC	P&N	ONTARIO	QUEBEC	ATLANTIC	HQ	TOTALS
ORDERS (Rail)							
Awaiting decision							
Rail	0	0	0	0	0	1	1
TOTALS (Orders)	**0**	**0**	**0**	**0**	**0**	**1**	**1**

HISTORICAL DATA

COMPARISON OF CASES WORKED ON IN THE PAST FIVE YEARS							
FISCAL YEAR	PACIFIC	P&N	ONTARIO	QUEBEC	ATLANTIC	HQ	TOTALS
2015-2016	28	22	46	73	24	98	291
2014-2015	29	28	56	67	22	107	309
2013-2014	42	56	77	64	31	110	380
2012-2013	40	82	68	63	41	100	394
2011-2012	46	82	58	70	27	72	355

TOTAL CASELOAD FOR THE PAST FIVE YEARS					
	2015-2016	2014-2015	2013-2014	2012-2013	2011-2012
New requests	137	153	136	190	180
Settled without a hearing	123	125	181	114	105
Review hearings	21	30	30	33	40
Appeal hearings	6	4	2	11	4

TOTAL CASES CONCLUDED WITH A HEARING BY REGION SINCE 1986							
Summary 1986-2016	PACIFIC	P&N	ONTARIO	QUEBEC	ATLANTIC	HQ	TOTALS
Total hearings	212	673	360	414	169	99	1927
%	11%	35%	19%	22%	9%	5%	100%
Reviews							1553
Appeals							374

S.C. 2001, c. 29
Assented to 2001-12-18

AN ACT TO ESTABLISH THE TRANSPORTATION APPEAL TRIBUNAL OF CANADA AND TO MAKE CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1 This Act may be cited as the *Transportation Appeal Tribunal of Canada Act*.

TRANSPORTATION APPEAL TRIBUNAL OF CANADA

Establishment

2 (1) There is hereby established a tribunal to be known as the Transportation Appeal Tribunal of Canada ("the Tribunal").

Jurisdiction generally

(2) The Tribunal has jurisdiction in respect of reviews and appeals as expressly provided for under the *Aeronautics Act*, the *Canada Shipping Act, 2001*, the *Marine Transportation Security Act*, the *Railway Safety Act* and any other federal Act regarding transportation.

Jurisdiction in respect of other Acts

(3) The Tribunal also has jurisdiction in respect of reviews and appeals in connection with administrative monetary penalties provided for under sections 177 to 181 of the *Canada Transportation Act*, sections 43 to 55 of the *International Bridges and Tunnels Act*, sections 129.01 to 129.19 of the *Canada Marine Act* and sections 39.1 to 39.26 of the *Navigation Protection Act*.

2001, c. 29, ss. 2, 71;
2007, c. 1, s. 59;
2008, c. 21, s. 65;
2012, c. 31, s. 345.

Members

3 (1) The Governor in Council shall appoint as members of the Tribunal persons who, in the opinion of the Governor in Council, collectively have expertise in the transportation sectors in respect of which the federal government has jurisdiction.

Full- or part-time members

(2) Members may be appointed as full-time or part-time members.

Chairperson and Vice-Chairperson

4 The Governor in Council shall designate one member as Chairperson of the Tribunal and one member as Vice-Chairperson. The Chairperson and Vice-Chairperson must be full-time members.

Duties of Chairperson

5 (1) The Chairperson has supervision over, and direction of, the work of the Tribunal, including

(a) the apportionment of work among members and the assignment of members to hear matters brought before the Tribunal and, when the Tribunal sits in panels, the assignment of members to panels and to preside over panels; and

(b) generally, the conduct of the work of the Tribunal and the management of its internal affairs.

Absence of Chairperson

(2) In the event of the absence or incapacity of the Chairperson or if the office of Chairperson is vacant, the Vice-Chairperson shall act as Chairperson during the continuance of that absence or incapacity or until a new Chairperson is designated.

2001, c. 29, s. 5;
2014, c. 20, s. 464.

Term of office

6 (1) A member shall be appointed to hold office during good behaviour for a term not exceeding seven years and may be removed for cause by the Governor in Council.

Reappointment

(2) A member is eligible to be reappointed.

Disposition after member ceases to hold office

(3) At the request of the Chairperson, a former member, within eight weeks after ceasing to be a member, may make or take part in a determination or decision on a matter that they heard as a member. For that purpose, the former member is deemed to be a member.

Remuneration

7 (1) Members shall receive the remuneration that is fixed by the Governor in Council.

Expenses

(2) Each member is entitled to be paid reasonable travel and living expenses incurred while absent in the course of their duties from, in the case of a full-time member, their ordinary place of work and, in the case of a part-time member, their ordinary place of residence.

Status

(3) Members are deemed to be employed in the federal public administration for the purposes of the *Government Employees Compensation Act* and any regulations made under section 9 of the *Aeronautics Act*.

2001, c. 29, s. 7;
2003, c. 22, s. 224(E).

Inconsistent interests — full-time members

8 (1) Full-time members shall not accept or hold any office, membership, employment or interest, or engage in any business activity, that is inconsistent with the proper performance of their duties and functions.

Divesting of interests

(2) If an interest that is prohibited under subsection (1) vests, by whatever means, in a full-time member, the member shall disclose the interest to the Chairperson without delay and, within three months after the interest vests, either divest himself or herself of the interest or resign as a member.

Duties of full-time members

(3) Full-time members shall devote the whole of their time to the performance of their duties and functions under this Act.

Inconsistent interests — part-time members

(4) If a part-time member who is assigned to hear or is hearing any matter before the Tribunal, either alone or as a member of a panel, holds any pecuniary or other interest that could be inconsistent with the proper performance of their duties and functions in relation to the matter, the member shall disclose the interest to the Chairperson without delay and is ineligible to hear, or to continue to hear, the matter.

Principal office

9 The principal office of the Tribunal shall be in the National Capital Region described in the schedule to the *National Capital Act*.

10 [Repealed, 2014, c. 20, s. 465]

Sittings

11 The Tribunal shall sit at those times and places in Canada that the Chairperson considers necessary for the proper performance of its functions.

Hearings on review

12 A review shall be heard by a member, sitting alone, who has expertise in the transportation sector to which the review relates. However, a review that concerns a matter of a medical nature shall be heard by a member with medical expertise, whether or not that member has expertise in the transportation sector to which the review relates.

Hearings on appeal

13 (1) Subject to subsection (2), an appeal to the Tribunal shall be heard by an appeal panel consisting of three members.

Size of panel

(2) The Chairperson may, if he or she considers it appropriate, direct that an appeal be heard by an appeal panel consisting of more than three members or, with the consent of the parties to the appeal, of one member.

Composition of panel

(3) A member who conducts a review may not sit on an appeal panel that is established to hear an appeal from his or her determination.

Qualifications of members

(4) With the exception of the Chairperson and Vice-Chairperson, who may sit on any appeal panel, an appeal shall be heard by an appeal panel consisting of members who have expertise in the transportation sector to which the appeal relates.

Medical matters

(5) Despite subsection (4), in an appeal that concerns a matter of a medical nature, at least one member of the appeal panel shall have medical expertise, whether or not that member has expertise in the transportation sector to which the appeal relates.

Decision of panel

(6) A decision of a majority of the members of an appeal panel is a decision of the panel.

Nature of appeal

14 An appeal shall be on the merits based on the record of the proceedings before the member from whose determination the appeal is taken, but the appeal panel shall allow oral argument and, if it considers it necessary for the purposes of the appeal, shall hear evidence not previously available.

Nature of hearings

15 (1) Subject to subsection (2), the Tribunal is not bound by any legal or technical rules of evidence in conducting any matter that comes before it, and all such matters shall be dealt with by it as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit.

Restriction

(2) The Tribunal shall not receive or accept as evidence anything that would be inadmissible in a court by reason of any privilege under the law of evidence.

Appearance

(3) A party to a proceeding before the Tribunal may appear in person or be represented by another person, including legal counsel.

Private hearings

(4) Hearings shall be held in public. However, the Tribunal may hold all or any part of a hearing in private if it is of the opinion that

(a) a public hearing would not be in the public interest;

(b) medical information about a person may be disclosed and the desirability of ensuring that, in the interests of that person, the information is not publicly disclosed outweighs the desirability of adhering to the principle that hearings be open to the public; or

(c) confidential business information may be disclosed and the desirability of ensuring that the information is not publicly disclosed outweighs the desirability of adhering to the principle that hearings be open to the public.

Standard of proof

(5) In any proceeding before the Tribunal, a party that has the burden of proof discharges it by proof on the balance of probabilities.

Powers of Tribunal

16 The Tribunal, and each of its members, has all the powers of a commissioner under Part I of the *Inquiries Act*.

Reasons

17 A member who conducts a review shall provide a determination, and an appeal panel shall provide a decision, with reasons, in writing to all parties to a proceeding.

Rules of Tribunal

18 The Tribunal may, with the approval of the Governor in Council, make rules that are not inconsistent with this Act or any Act referred to in section 2 to govern the management of its affairs and the practice and procedure in connection with matters brought before it.

Costs

19 (1) The Tribunal may award any costs, and may require the reimbursement of any expenses incurred in connection with a hearing, that it considers reasonable if

(a) it is seized of the matter for reasons that are frivolous or vexatious;

(b) a party that files a request for a review or an appeal and does not appear at the hearing does not establish that there was sufficient reason to justify their absence; or

(c) a party that is granted an adjournment of the hearing requested the adjournment without adequate notice to the Tribunal.

Recovery

(2) Costs awarded to the Minister of Transport, and expenses of that Minister or the Tribunal that are subject to reimbursement, under subsection (1) are a debt due to Her Majesty in right of Canada.

Certificate

(3) Costs or expenses under subsection (1) that have not been paid may be certified by the Tribunal.

Registration of certificate

(4) On production to the Federal Court, a certificate shall be registered. When it is registered, a certificate has the same force and effect as if it were a judgment obtained in the Federal Court for a debt of the amount specified in it and all reasonable costs and charges attendant on its registration, recoverable in that Court or in any other court of competent jurisdiction.

Proceedings to be recorded

20 Proceedings before the Tribunal shall be recorded, and the record shall show all evidence taken and all determinations, decisions and findings made in respect of the proceedings.

Decision on appeal final

21 A decision of an appeal panel of the Tribunal is final and binding on the parties to the appeal.

Annual report

22 The Tribunal shall, not later than June 30 in each fiscal year, submit to Parliament, through the member of the Queen's Privy Council for Canada who is designated by the Governor in Council as the Minister for the purposes of this section, a report of its activities during the preceding fiscal year, and that Minister shall cause the report to be laid before each House of Parliament on any of the first 15 days on which that House is sitting after the Minister receives it.

TRANSITIONAL PROVISIONS

Definitions

23 The definitions in this section apply in sections 24 to 32.

former Tribunal means the Civil Aviation Tribunal established by subsection 29(1) of the *Aeronautics Act* as that Act read immediately before the coming into force of section 44. (*ancien Tribunal*)

new Tribunal means the Transportation Appeal Tribunal of Canada established by subsection 2(1).

Powers, duties and functions

24 Wherever, in any Act of Parliament, in any instrument made under an Act of Parliament or in any contract, lease, licence or other document, a power, duty or function is vested in or is exercisable by the former Tribunal, the power, duty or function is vested in or is exercisable by the new Tribunal.

Appropriations

25 Any amount that is appropriated, for the fiscal year in which this section comes into force, by an appropriation Act based on the Estimates for that year for defraying the charges and expenses of the former Tribunal and that, on the day on which section 44 comes into force, is unexpended is deemed, on that day, to be an amount appropriated for defraying the charges and expenses of the new Tribunal.

Members of Tribunal

26 The Chairman, Vice-Chairman and other members of the former Tribunal immediately before the coming into force of section 44 shall, on the coming into force of that section, occupy the positions of Chairperson, Vice-Chairperson and members, respectively, with the new Tribunal until the expiry of the period of their appointment to the former Tribunal.

Employment continued

27 (1) Nothing in this Act shall be construed as affecting the status of an employee who, immediately before the coming into force of section 44, occupied a position with the former Tribunal, except that each of those persons shall, on the coming into force of that section, occupy their position with the new Tribunal.

Definition of *employee*

(2) For the purposes of this section, ***employee*** has the same meaning as in subsection 2(1) of the *Public Service Employment Act*.

References

28 Every reference to the former Tribunal in any deed, contract, agreement or other document executed by the former Tribunal in its own name shall, unless the context otherwise requires, be read as a reference to the new Tribunal.

Rights and obligations

29 All rights and property of the former Tribunal and of Her Majesty in right of Canada that are under the administration and control of the former Tribunal and all obligations of the former Tribunal are transferred to the new Tribunal.

Commencement of legal proceedings

30 Any action, suit or other legal proceeding in respect of an obligation or liability incurred by the former Tribunal may be brought against the new Tribunal in any court that would have had jurisdiction if the action, suit or other legal proceeding had been brought against the former Tribunal.

Continuation of legal proceedings

31 Any action, suit or other legal proceeding to which the former Tribunal is a party that is pending in any court immediately before the day on which section 44 comes into force may be continued by or against the new Tribunal in the same manner and to the same extent as it could have been continued by or against the former Tribunal.

Continuation of proceedings

32 (1) Proceedings relating to any matter before the former Tribunal on the coming into force of section 44, including any matter that is in the course of being heard by the former Tribunal, shall be continued by the new Tribunal.

Application of provisions

(2) Unless the Governor in Council, by order, directs that proceedings continued under this section are to be dealt with in accordance with the provisions of this Act, the proceedings shall be dealt with and determined in accordance with the provisions of the *Aeronautics Act* as that Act read immediately before the coming into force of section 44.

Directions re proceedings

(3) The Governor in Council may, by order, direct that proceedings in respect of any class of matter referred to in subsection (1) in respect of which no decision or order is made on the coming into force of section 44 shall be discontinued or continued by the new Tribunal, as the case may be, on the terms and conditions specified in the order for the protection and preservation of the rights and interests of the parties.

CONSEQUENTIAL AMENDMENTS

33. to 70 [Amendments]

COORDINATING AMENDMENTS

71. and 72 [Amendments]

COMING INTO FORCE

Coming into force

73 The provisions of this Act, other than sections 71 and 72, come into force on a day or days to be fixed by order of the Governor in Council.

TRIBUNAL RULES

SOR/86-594, effective June 1, 1986 and amendment SOR/93-346, June 16, 1993

RULES GOVERNING THE PRACTICE AND PROCEDURE IN CONNECTION WITH MATTERS DEALT WITH BY THE TRANSPORTATION APPEAL TRIBUNAL OF CANADA

SHORT TITLE

1. These Rules may be cited as the *Transportation Appeal Tribunal of Canada Rules.*

INTERPRETATION

2. In these Rules,

"**Act**" means the *Aeronautics Act*, the *Canada Shipping Act, 2001*, the *Marine Transportation Security Act*, the *Railway Safety Act*, or the *Canada Transportation Act* [s.2 of the *Transportation Appeal Tribunal of Canada Act*]; (*Loi*)

"**party**" means a party to a proceeding; (*partie*)

"**proceeding**" means a review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act*; a review under sections 16.1, 20.4, 231.2, or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*; a review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*; a review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*; a review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation Act*; (*instance*)

"**registrar**" means a registrar of the Tribunal, and includes a deputy registrar; (*greffier*)

"**registry**" means the principal office of the Tribunal in the National Capital Region or such other offices as the Tribunal may establish from time to time. (*greffe*)

APPLICATION

3. These Rules apply to all proceedings.

GENERAL

4. Where a procedural matter not provided for by the Act or by these Rules arises during the course of any proceeding, the Tribunal may take any action it considers necessary to enable it to settle the matter effectively, completely and fairly.

SERVICE

5. Service of a document, other than a summons referred to in section 14, shall be effected by personal service or by registered mail.

6. Where service of a document is effected by registered mail, the date of service is the date of receipt of the document.

FILING

7. Where a party is required or authorized to file a document with the Tribunal, the document may be filed by depositing it in the registry personally, by mailing it or sending it by courier to the registry or by transmitting it to the registry by telex, facsimile or other electronic means of communication if the registry has the necessary facilities for accepting transmission in such manner.

8. The date of filing of a document with the Tribunal is the date of receipt of the document at the registry, as evidenced on the document by means of the filing stamp of the Tribunal.

HOLIDAY

9. Where a time limit prescribed by or pursuant to the Act or these Rules falls on a Saturday, Sunday or holiday, the time limit is extended to the next following business day.

APPLICATIONS

10. (1) An application for any relief or order, other than a request for review under sections 6.71, 6.9, 7, 7.1 or 7.7 or an appeal under sections 7.2 or 8.1 of the *Aeronautics Act;* a request for review under sections 16.1, 20.4, 231.2 or 232(1) or an appeal under sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001;* a request for review under sections 19.4(1), 37 or 39(1) or an appeal under sections 19.6(1) or 40(1) of the *Marine Transportation Security Act;* a request for review under sections 27.1, 31 or 32 or an appeal under sections 27.5, 31.2 or 32.2 of the *Railway Safety Act;* a request for review under section 180.1 or an appeal under section 180.6(1) of the *Canada Transportation Act,* shall be in writing and filed with the Tribunal unless, in the opinion of the Tribunal, circumstances exist to allow an application to be dealt with in some other manner.

(2) An application shall fully set out the grounds on which it is based and shall specify the relief or order requested.

(3) Subject to subsection (4), where a party makes an application, the Tribunal shall serve notice of the application on each other party and shall afford each other party a reasonable opportunity to make representations.

(4) The Tribunal may dispose of an application on the basis of the material submitted by each party or, if in its opinion there exist exigent circumstances, on the basis of the material submitted by the applicant only.

(5) The Tribunal, upon considering the material submitted to it, shall render its determination of an application in writing and shall serve on each party a copy of the determination forthwith after the determination has been rendered.

EXTENDING OR ABRIDGING TIME

11. The Tribunal may extend or abridge a time prescribed by or pursuant to these Rules for performing any act or doing any thing on such terms, if any, as seem just.

PRELIMINARY PROCEDURES

12. The Tribunal may, orally or in writing, direct that the parties appear before a member of the Tribunal at a specified date, time and place for a conference, or consult each other and submit suggestions in writing to the Tribunal, for the purpose of assisting it in the consideration of

(a) the admission or proof of certain facts;

(b) any procedural matter;

(c) the exchange between the parties of documents and exhibits proposed to be submitted during a proceeding;

(d) the need to call particular witnesses; and

(e) any other matter that may aid in the simplification of the evidence and disposition of the proceeding.

ADJOURNMENTS

13. At any time, the Tribunal may, on the application of any party or on its own motion, adjourn a proceeding on such terms, if any, as seem just.

WITNESSES

14. (1) At the request of a party, the registrar shall issue a summons in blank for a person to appear as a witness before the Tribunal and the summons may be completed by the party requesting it.

(2) A summons shall be served personally on the person to whom it is directed at least 48 hours before the time fixed for the attendance of the person.

(3) At the time of service of a summons on a person, the party requesting the appearance of the person shall pay fees and allowances to the person in accordance with Rule 42 of the *Federal Courts Rules*.

15. (1) Where a person has been summoned to appear as a witness before the Tribunal and does not appear, the party that requested the issuance of the summons may apply to the Tribunal for a warrant directing a peace officer to cause the person who failed to appear to be apprehended anywhere in Canada and, subsequent to the apprehension, to be

(a) detained in custody and forthwith brought before the Tribunal until his presence as a witness is no longer required; or

(b) released on a recognizance, with or without sureties, conditional on the person's appearance at the date, time and place specified therein to give evidence at a proceeding.

(2) An application made pursuant to subsection (1) shall contain information indicating that

(a) the person named in the summons

(i) was served with the summons in accordance with subsection 14(2),
(ii) was paid or offered witness fees and allowances in accordance with subsection 14(3), and
(iii) failed to attend or remain in attendance before the Tribunal in accordance with the requirements of the summons; and

(b) the presence of the person named in the summons is material to the proceeding.

PROCEEDING

16. (1) Witnesses at a proceeding shall be subject to examination and cross-examination orally on oath or solemn affirmation.

(2) The Tribunal may order a witness at a proceeding to be excluded from the proceeding until called to give evidence.

(3) The Tribunal may, with the consent of each party, order that any fact be proved by affidavit.

(4) The Tribunal may inspect any property or thing for the purpose of evaluating the evidence.

ARGUMENT

17. The Tribunal may direct a party to submit written argument in addition to oral argument.

APPEALS

18. (1) An appeal to the Tribunal pursuant to sections 7.2 or 8.1 of the *Aeronautics Act*, sections 20.5(1) or 232.2 of the *Canada Shipping Act, 2001*, sections 19.6(1) or 40(1) of the *Marine Transportation Security Act*, sections 27.5, 31.2 or 32.2 of the *Railway Safety Act*, or section 180.6(1) of the *Canada Transportation Act* shall be commenced by filing in writing with the Tribunal a request for appeal.

(2) A request for appeal shall include a concise statement of the grounds on which the appeal is based.

(3) A copy of a request for appeal shall be served by the Tribunal on each other party within ten days after filing the request.

19. Where a request for appeal has been filed with the Tribunal, the Tribunal shall serve on the parties to the appeal

(a) a notice of the date, time and place of the hearing of the appeal; and

(b) a copy of the record referred to in section 20 of the *Transportation Appeal Tribunal of Canada Act*, respecting the proceedings to which the appeal relates.

DETERMINATION

20. (1) The Tribunal shall render its determination in writing at the conclusion of a proceeding or as soon as is practicable after a proceeding.

(2) For the purpose of calculating the period within which a party may appeal a determination, the determination is deemed to be made on the day on which it is served on the party.

(3) The Tribunal shall serve on each party a copy of a determination forthwith after the determination has been rendered.

These Rules contain consequential amendments in the *Transportation Appeal Tribunal of Canada Act* and have been embodied for convenience of reference only. For purposes of interpretation of the law, the original Rules should be consulted.

NOTES